

CHILDREN AND FAMILIES

DIVISION OF YOUTH AND FAMILY SERVICES

Foster Care

Proposed Readoption with Amendments: N.J.A.C. 10:122B

Authorized By: Eileen Crummy, Acting Commissioner, Department of Children and Families.

Authority: N.J.S.A. 30:4C-4(h) and 30:4C-26a.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2008-235

Submit written comments by September 5, 2008 to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 10:122B, Foster Care, will expire on June 5, 2008. Pursuant to N.J.S.A. 52:14B-5.1c, this date is extended to December 2, 2008. The Division has reviewed these rules and has determined that they continue to be necessary, proper and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

As the Division has provided a 60-day comment period on this notice of proposal, this notice is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

This chapter was first promulgated in 1993. The Division placed its policies on foster care in the rule format to comply with New Jersey Supreme Court decisions, *Metromedia, Inc. v. Director, Division of Taxation*, 97 N.J. 313 (1984), and *Woodland Private Study Group v. State of New Jersey, Department of Environmental Protection*, 109 N.J. 62 (1987). This chapter was readopted with amendments in 1997 and 2003.

The purpose of this chapter is to enable the Division to maintain a supply of licensed resource homes to care for children who need to be removed from their own homes and placed with safe and appropriate families, either temporarily or permanently.

N.J.A.C. 10:122B is an introductory chapter which contains general provisions applying to N.J.A.C. 10:122C, Manual of Requirements for Resource Family Parents, N.J.A.C. 10:122D, Foster Care Services; and N.J.A.C. 10:122E, Removal of Foster Children and Closure of Foster Homes. N.J.A.C. 10:122D is proposed for readoption with amendments published elsewhere in this issue of the New Jersey Register with the proposed new heading, Services for Children in Out-of-Home Placement. N.J.A.C. 10:122E is proposed for readoption with amendments and published elsewhere in this issue of the New Jersey Register, with the proposed heading of Removal of Children in Placement from Resource Family Homes. The Division proposes to amend these headings in this chapter at N.J.A.C. 10:122B-1.2(c).

The Division is amending these rules to broaden the scope from foster care to resource care. The Division now licenses people to provide resource care, which includes foster care, relative care, family friend care, and adoptive care. The Division has amended the terminology throughout the chapter to use resource parent instead of foster parent, resource care instead of foster care, and resource home instead of foster home.

At N.J.A.C. 10:122B-1.1(a)2 and 3, 1.4(a), 4.1(d), 5.5, the heading of 5.6, and 5.6(a), the Division has deleted the phrase “foster children or child” and replaced it with the phrase “children or child in placement.” This phrase is defined at N.J.A.C. 10:122C-1.3 and more

accurately identifies children for whom the nondiscrimination policy, the service limitations, the social activities policy, the special transportation needs policy, and the care and supervision policy apply.

N.J.A.C. 10:122B-1.1 states the purpose of the chapter. The Division proposes an amendment to N.J.A.C. 10:122B-1.1(a)1. The amendment states that one purpose of the chapter is to have this chapter's definitions used in N.J.A.C. 10:122C, as well as in N.J.A.C. 10:122D and 10:122E. N.J.A.C. 10:122C-1.3(a) was adopted as a new rule in 2006. It incorporated the definitions in N.J.A.C. 10:122B, so this amendment to 10:122B-1.1(a)1 brings information on definitions in the two chapters into agreement.

The Division is amending N.J.A.C. 10:122B-1.1(a)4 so that one purpose of the rules is to state when a Department employee, rather than a Division employee, or his or her relatives and household members can become a resource parent. The Division has included a definition of the term at N.J.A.C. 10:122B-2.1(a) and amended Subchapter 2 to use the term "Department employee." The definition includes persons who are employed in or have a work station at a Department office, have access to files containing client information, or are regarded as independent contractors for other purposes.

N.J.A.C. 10:122B-1.2 states the scope of the chapter and 10:122D and 122E. The scope, N.J.A.C. 10:122B-1.2, has been amended to indicate that the scope of this chapter is related to resource care services and resource parents and applicants. The Division has deleted the phrase "for the general placement of children" from N.J.A.C. 10:122B-1.2(a) because of the broader scope of resource care, indicated in the scope at N.J.A.C. 10:122C-1.2, makes this phrase obsolete. Resource care includes the provision of several different placement services, not only the general placement of children.

The Division is proposing to amend N.J.A.C. 10:122B-1.2(b) to state that resource parents are licensed by the Office of Licensing. This amendment is proposed to accurately state the locus of responsibility for this task, in accordance with N.J.A.C. 10:122C-2, Licensing Procedures.

N.J.A.C. 10:122B-1.2(c) is amended to explain that this series of chapters includes information on resource care and out-of-home placement. The Division has proposed to broaden the scope of N.J.A.C. 10:122E to include resource care, rather than only foster care, and N.J.A.C. 10:122D to include resource care, as well as all other types of out-of-home placement. See the proposed readoptions with amendments of these two chapters, published elsewhere in this issue of the New Jersey Register. N.J.A.C. 10:122C was repealed and adopted as new rules in 2006 to apply to all types of resource care. The 2006 rules also included a new name for the chapter, Manual of Requirements for Resource Family Parents, which is being updated in this rule.

N.J.A.C. 10:122B-1.3 states the definitions used in this chapter and in N.J.A.C. 10:122C, 10:122D, and 10:122E. The Division is amending N.J.A.C. 10:122B-1.3(a) to remove an outdated citation to N.J.A.C. 10:122C-1.2 from these rules. The new rules adopted in 2006 no longer have definitions in two different sections.

The Division is deleting the definition of “contract agency” in N.J.A.C. 10:122B-1.3(b) because it is defined in N.J.A.C. 10:122C-1.3(b). The Division wants to avoid having duplicate definitions in the Division’s resource care rules. The Division is also proposing to delete the definition of “foster home,” as it is no longer a term used in the rules.

N.J.A.C. 10:122B-1.4 states service limitations for each child in placement and the child’s family.

N.J.A.C. 10:122B-1.5 states the Division’s nondiscrimination policy for resource care services and the licensing of resource parents. The Division is amending the reference to N.J.A.C. 10:122C-2.1(b)1 in N.J.A.C. 10:122B-1.5 in order to bring it up to date.

The Division is also amending N.J.A.C. 10:122B-1.5(c) to include a prohibition on denying an individual the opportunity to become a resource parent based on his or her civil union or domestic partnership status. P.L. 2006, c. 103 became effective in February, 2007, establishing legally-recognized civil unions in New Jersey and amending domestic partnerships in New Jersey. Each is a separate and distinct status in New Jersey. The Division wants to

clarify its recognition of these legal statuses by including them amongst the statuses that the Division will not discriminate against.

N.J.A.C. 10:122B-1.6 states citations regarding dispute resolution opportunities. Dispute resolution for decisions made by an agency under contract with the Division is governed by N.J.A.C. 10:120B, Hearings. Since this chapter was recodified in 2006, the Division is correcting the citation. Dispute resolution for resource parent licensure issues are now addressed in N.J.A.C. 10:122C-2.5, in accordance with the new rules adopted in 2006. Other disputes regarding Division service issues and status issues for resource parents continue to be covered by N.J.A.C. 10:120A.

N.J.A.C. 10:122B-2 addresses the circumstances under which a Department employee, his or her household members, and relatives can become or remain resource parents.

The Division has a strict limit on a Department employee or household member becoming or remaining a resource parent, in order to comport with the State's ethics law. Department employees, relatives, or household members who have a kinship connection to a child needing resource care can become resource parents. Those who were licensed resource parents prior to becoming employees of the Department and who still have one or more children placed by the Division in their home can remain resource parents as long as those children stay with them as children in placement.

The change in the scope of these rules from foster care to resource care is significant, as it brings those who want to adopt a child from the Division under the scope of these rules. All those who wish to adopt through the Division must be licensed resource parents, including Department employees and their relatives and household members.

The Division is amending the term "Division employee" or "employee" to "Department employee" throughout Subchapter 2 in order to broaden the scope of the rules to cover all employees of the Department of Children and Families.

The Division is amending N.J.A.C. 10:122B-2.1(a)1 to delete the phrase “needing an out-of-home placement” as being too broad and general, based on the definition of out-of-home placement in N.J.A.C. 10:133-1.3. Adding the term “needing resource care” is accurate to the scope of this rule.

The Division is deleting part of recodified N.J.A.C. 10:122B-2.1(b)1, which allowed a sibling of a child in placement with a Division employee to be placed in the Division employee’s resource home when it was the most appropriate placement. The Division is also deleting recodified N.J.A.C. 10:122B-2.1(b)2, which allowed a child to be placed in an employee’s home when the child had been placed there previously. The Division is deleting this material as it is no longer necessary.

The Division is amending recodified N.J.A.C. 10:122B-2.1(a)2 to state that at least one child placed by the Division must remain in the resource home for a Department employee to retain his or her license after becoming employed by the Department. The Division is deleting recodified subparagraphs (b)2ii to iv as they are no longer necessary.

The Division has added new N.J.A.C. 10:122B-2.1(a)3 to include those employees and household members who want to adopt a child with special needs, as defined in N.J.A.C. 10:121-1.1. This is necessary because resource care includes adoptive parents, as well as foster parents and relatives who wish to care for related children, in accordance with N.J.A.C. 10:122C-1.2(b)8.

The Division is adding new subsection (c) at N.J.A.C. 10:122B-2.1 to cover its obligations under the ethics laws of New Jersey to have a Department employee’s plan, or that of a relative or household member, to become a resource parent for fostering or adopting children approved by the Departmental ethics liaison. The former subsection (b) has been recodified as (d).

Recodified N.J.A.C. 10:122B-2.1(d) has been amended to change terminology from “regional office” to “area office.” This brings the terminology in the rules current with what is in use in the Division. The Division is also deleting the final clause and replacing it with “has no connections, whether personal or professional.” The Division wants to include the concept that

there can not be any personal relationships, as well as no professional relationships, between the office staff who are conducting the employee's home study and the employee.

N.J.A.C. 10:122B-2.1(c) and recodified 2.2(e) each contain a general statement that the Division shall prevent any undue influence by the Division employee on the home study and licensing process. The Division is deleting N.J.A.C. 10:122B-2.1(c) and the first sentence of recodified N.J.A.C. 10:122B-2.2(e) because they are unspecific. New N.J.A.C. 10:122B-2.1(c) and 2.2(c) are more specific about how this influence will be addressed by the Department.

Relatives who have a separate household from the Department employee can become resource parents just as any other person who applies to be licensed, once the Department employee has obtained approval from the Department's ethics liaison. Recodified N.J.A.C. 10:122B-2.2(d) has been amended to state that the relative's home study is completed by the staff of a Division office where the Department employee does not work. The home study will be completed by an office in a county adjacent to where the relative lives when the Department employee works in the office that would normally handle the relative's home study. The placement of a child and the supervision of the placement are also handled by staff in an office where the Department employee does not work. The purpose of this procedure is to prevent the appearance of influence.

The Division is amending recodified N.J.A.C. 10:122B-2.2(d) to remove the term "Deputy Director, Program Operations" as this position no longer exists within the Division. The Division is transferring the responsibility of assigning an office to complete the home study to the Area Director.

The Division proposes to amend recodified N.J.A.C. 10:122B-2.2(e) to add the purpose of securing records regarding a relative's resource home. The purpose is to secure the records so the Department employee cannot access them.

Subchapter 3 addresses criminal history record checks for resource parents and household members. The Division's and the contract agency's responsibilities are stated in this subchapter. The Division proposes to amend N.J.A.C. 10:122B-3.1(a)2 to state that each household member

who reaches 18 years of age shall be fingerprinted, rather than all children who reach 18 years of age. The Division is making this amendment to bring this chapter into agreement with the proposed amendment to N.J.A.C. 10:122C-5.4(a)1, published elsewhere in this issue of the New Jersey Register. This amendment excludes children in placement from being fingerprinted.

Subchapter 5 applies only to the Division's responsibilities to resource parents who are supervised directly by the Division. It covers the Division's responsibilities for pre-service training, certain payments available to resource parents for physical examinations and other expenses related to pre-service training, home visits as a part of the home study process, special transportation for a child in placement, and child care payments for a child in placement when the resource parent is at work.

At N.J.A.C. 10:122B-5.3(b)1, the cross-reference to N.J.A.C. 10:122C regarding sleeping space and life safety standards is amended to reflect the current rules.

At N.J.A.C. 10:122B-5.6(a), the Division is amending the cross-reference to N.J.A.C. 10:122C regarding care and supervision to reflect the correct citation.

### Social Impact

These rules have served to protect vulnerable children who need resource care from the Division by providing standards, payments, and services applicable to resource parents to ensure that the resource home and family are safe. The goal of providing safe, nurturing resource families for abused or neglected children remains constant.

These rules affect each child placed in resource care, 4,790 children in non-kin resource care and 3,562 children in kinship resource care, as of July 6, 2007, and the 5,163 licensed resource homes and 2,055 pending resource parent applications, as of May, 2008.

No service limitations have been imposed in the years since these rules have been operative. The service limitations section, N.J.A.C. 10:122B-1.4, allows the public to know



when the Division has limited services to children placed in resource care and their families due to a shortage of money to fund the services.

The social impact of the nondiscrimination statement is again to inform the public of the Division's policies on this subject.

### Economic Impact

The Division is appropriated \$99.2 million in Federal Title IV-E funds for fiscal year 2008. Under Title IV-E of the Social Security Act, the Division must meet certain standards in order to be eligible for the appropriated funds. These rules assist the Division to meet the Federal requirements by operationalizing the Federal requirements.

Specifically, these rules assist the Division to meet 42 U.S.C. 671(a)(10), (11), (18), (20), and (24). In each of these cites, the statute requires that the State have a plan, which provides that certain activities are done. These rules specify that some of the activities stated in the above cites be done.

42 U.S.C. §671(a)(18)(B) requires a state which receives funding under Title IV-E of the Social Security Act to prohibit denying the opportunity to become a foster or adoptive parent or delaying or denying foster or adoptive placement on the basis of race, color or national origin of the applicant, foster or adoptive parent or child involved. Graduated financial penalties can be implemented if a State fails to meet these requirements, pursuant to 42 U.S.C. §674(d)(1).

The reimbursements allowed in proposed N.J.A.C. 10:122B-5.1 for a physical examination, transportation, parking and babysitting costs incurred by the resource parent applicant in completing the resource care licensing process have a positive effect on resource parent applicants. These reimbursements are meant to encourage people to apply to become licensed foster parents by reducing the costs of being licensed.

N.J.A.C. 10:122B-5.2 and 5.3 guarantee that the Division will pay transportation costs for a child placed in resource care and child care costs for a child in resource care under certain,

specified circumstances. The purpose is to assure resource parents that the Division will provide money to pay for these expenses. The money will not have to come out of the resource parent's own income.

#### Federal Standards Statement

The requirements in the rules proposed for readoption with amendments are not in excess of those imposed by Federal law. The rules implement various sections of Title IV-E of the Social Security Act, 42 U.S.C. §§671 et seq.

42 U.S.C. §671(a)(10) requires that the State have a plan that provides for standards for foster homes, including standards for the protection of civil rights for any foster home receiving funds through Title IV-E. 42 U.S.C. §671(a)(11) requires that the State have a plan that provides for the periodic review of these standards. These rules establish nondiscrimination standards to protect the civil rights of resource parent applicants, resource parents, and children in placement, at N.J.A.C. 10:122B-1.5. The rules propose for readoption with amendments provide for the periodic review of the standards, as required by 42 U.S.C. §671(a)11.

42 U.S.C. §671(a)(18) prohibits a State from denying an applicant the opportunity to become an adoptive or foster parent or from denying or delaying the placement of a child for adoption or in a foster home on the basis of the race, color, or national origin of the adoptive or foster parent applicant, adoptive or foster parent, or child. 42 U.S.C. §674(d)1 requires a graduated reduction in Federal payments under this title if 42 U.S.C. §671(a)18 is violated by the State. These rules establish the Division's application of these statutes to the New Jersey resource care program.

42 U.S.C. §671(a)(20)(A) requires that the plan provide procedures for criminal records checks for foster and adoptive parent applicants. N.J.A.C. 10:122B-3.1 states the Division's and the contract agency's responsibilities in completing the criminal history checks.

42 U.S.C. §671(a)(24) requires a state plan which requires that a prospective foster parent applicant receive appropriate knowledge and skills to provide foster care, and that such

knowledge and skills continue to be provided after a child is placed with the foster parent. N.J.A.C. 10:122B-5.1 requires that the Division provide pre-service training. N.J.A.C. 10:122B-4.1 requires that the Division or contract agency provide information and assistance to each licensed resource parent.

These rules supplement and do not exceed the Federal laws related to foster and adoptive care.

### Jobs Impact

The Division does not expect that the rules proposed for readoption with amendments will result in the generation or loss of any jobs.

### Agriculture Industry Impact

The rules proposed for readoption with amendments have no impact on the agriculture industry.

### Regulatory Flexibility Analysis

Neither the Division, nor those receiving resource care from the Division, nor resource parents providing resource care to children under the Division's supervision are considered a small business under the terms of N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. The Division contracts with private not-for-profit social service agencies to provide resource care for children under the supervision of the Division. Some of these social service agencies are considered small businesses under N.J.S.A. 52:14B-16 et seq.

The rules require that the Division and contract agencies obtain and keep confidential all criminal history information obtained on resource parent applicants and adult household members at N.J.A.C. 10:122B-3.1(b) and (c). The Division is not differentiating between the Division and large social service agencies, and the agencies with which it contracts that are small businesses because the gathering of criminal history information is required by State statute,

N.J.S.A. 30:4C-26.8 and 27.8. Obtaining criminal history information is necessary to protect the health, safety, and welfare of children who may be placed with the resource parents. No capital improvements are needed for the “small business” social service agencies to comply with this requirement. No professional services in addition to the professional services of social workers already employed by these agencies are needed to meet the requirements of this rule.

The cost of obtaining criminal history record checks is covered by the Department when applicants are studied by either the Division or an agency under contract with the Department.

#### Smart Growth Statement

The Division does not anticipate that the rules proposed for readoption with amendments will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:122B.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

## CHAPTER 122B

### [FOSTER] RESOURCE CARE

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:122B-1.1 Purpose

- (a) The purpose of this chapter is to state:
1. The definitions of certain words and terms used in this chapter and N.J.A.C. 10:122C, 10:122D, and 10:122E;
  2. The Division's non-discrimination policy regarding [foster] resource parent applicants, [foster] resource parents, and [foster] children in placement;
  3. When and how services to [foster] children in placement may be limited;
  4. The circumstances under which a [Division] Department employee, household member, or relative can become a [foster] resource parent;
  5. (No change.)
  6. The Division's and contract agencies' responsibilities to the [foster] resource parent;
  7. When a [foster] resource parent applicant can be reimbursed for a physical examination and other expenses incurred related to becoming a licensed [foster] resource parent;
  8. How the Division approves and pays for child care when the [foster] resource parent is working; and
  9. (No change.)
- (b) The purpose of this chapter, N.J.A.C. [10:122B,]10:122C, 10:122D, and 10:122E does not:
1. Create an employer/employee relationship between the Division and a licensed [foster] resource parent; or
  2. Create any right to be a [foster] resource parent, apart from that which may exist under statute or case law.

##### 10:122B-1.2 Scope

- (a) The provisions of this chapter and N.J.A.C. 10:122D and 10:122E shall apply to each person licensed by the Division to provide [foster] resource care services for a child under the Division's supervision and to each household member; to each person making application to be a [foster] resource parent [for the general placement of children] and to each household

member; and to each Division representative or contract agency employee responsible for studying, reevaluating or licensing [foster] resource parents and their families or providing services to children in [foster] resource care.

(b) N.J.A.C. 10:122B-5 applies to Division representatives and [foster] resource parents licensed by the Office of Licensing and supervised directly by the Division, and not to a contract agency's employees and [foster] resource parents.

(c) The regulatory framework of this series of chapters on [foster] resource care and out-of-home placement services includes this chapter and N.J.A.C. 10:122C, [Licensure of Foster Homes] Manual of Requirements for Resource Family Parents, N.J.A.C. 10:122D, [Foster Care] Services for Children in Out-of-home Placement, and N.J.A.C. 10:122E, Removal of [Foster] Children [and Closure of Foster] in Placement from Resource Family Homes. The rules contained in this chapter, N.J.A.C. [10:122B,] 10:122D and 10:122E are to be used in conjunction with the rules in N.J.A.C. 10:122C when applied to [foster] resource homes under the supervision of the Division.

### **10:122B-1.3 Definitions**

(a) The definitions in N.J.A.C. 10:122C-[1.2 and] 1.3 are hereby incorporated into this chapter by reference.

(b) The following words and terms used in this chapter and in N.J.A.C. 10:122C, 10:122D, and 10:122E shall have the following meanings, unless the context clearly indicates otherwise:

["Contract agency" means an organization under contract with the Division to provide an array of foster care services to the Division. Services may include recruitment, screening, assessment, training, and management of foster homes serving children.]

...

["Foster home" means a private residence in which board, lodging, care, and temporary out-of-home placement services are provided by a foster parent on a 24-hour basis to a child under the auspices of the Division and which is licensed as a foster home in accordance with N.J.A.C. 10:122C.]

...

#### **10:122B-1.4 Service limitations**

(a) The Division shall provide needed services within the limits of legislative appropriations to all eligible [foster] children in placement and their families in similar circumstances. The provision of services shall also be subject to limitations due to actual ability of the Division to provide such services directly or by purchasing such services from appropriate privately sponsored agencies or institutions.

(b) (No change.)

#### **10:122B-1.5 Nondiscrimination**

(a) Pursuant to 42 U.S.C. §671(a)(18), neither the Division nor a contract agency providing [foster] resource care services shall deny to any individual the opportunity to become a [foster] resource parent on the basis of the race, color, or national origin of the individual or of the child involved; or delay or deny the placement of a child into [foster] resource care on the basis of the race, color, or national origin of the [foster] resource parent or child involved.

(b) Neither the Division nor any contract agency providing [foster] resource care services shall discriminate with regards to the licensing of a [foster] resource parent or to providing [foster] resource care in accordance with N.J.A.C. 10:122C-[1.4]2.1(b)1, on the basis of age; disability; gender; religion; sexual orientation; parental status; or birth status, against:

1. Any person who requests information about becoming a [foster] resource parent;
2. A [foster] resource parent applicant;
3. A licensed [foster] resource parent;
4. A child needing placement in a [foster] resource home; or
5. A child placed in a [foster] resource home.

(c) Neither the Division nor any contract agency providing [foster] resource care services shall deny an individual the opportunity to become a [foster] resource parent on the basis of marital, civil union, or domestic partnership status.

(d) When a couple lives together, both partners shall be considered to be [foster] resource parents who shall meet the standards contained in N.J.A.C. 10:122C.

#### **10:122B-1.6 Dispute resolution**

Any person included in the scope of these rules, as specified in N.J.A.C. 10:122B-1.2(a), shall refer to N.J.A.C. 10:120A, Dispute Resolution, N.J.A.C. [10:120-2] 10:120B, Hearings, and N.J.A.C. 10:122C-[2.4]2.5 to determine if he or she has any opportunity available to resolve a dispute with the Division or a contract agency.

## **SUBCHAPTER 2. [DIVISION] DEPARTMENT EMPLOYEES, RELATIVES AND HOUSEHOLD MEMBERS AS [FOSTER] RESOURCE PARENTS**

### **10:122B-2.1 [Division] Department employees and household members as [foster] resource parents**

(a) For purposes of this subchapter only, "Department employee" means a person who is employed in, or has a work station at, any of the Department of Children and Families' offices, and anyone who has access to computerized or paper files, which contain client information, including those persons who are regarded as independent contractors for other purposes.

[(a)](b) A [Division] Department employee or a member of the Department employee's household can become a licensed [foster] resource parent for a child under the Division's supervision only under the following circumstances:

1. A child needing [an out-of-home placement] resource care has a kinship connection to a relative or a family friend who is a [Division] Department employee or a member of the employee's household[, including a child who is a full or half-sibling of a child already in the employee's household; and the employee offers the most appropriate out-of-home placement available for the child until a permanent plan is achieved in accordance with N.J.S.A. 30:4C-60 et seq.];

[2. A child who needs replacement has an established relationship with the employee or a member of the employee's household based on prior placement with the employee or household member; or]

[3.] 2. [The] A Department employee or member of [the] a Department employee's household was licensed as a [foster] resource parent prior to the Department employee being hired by the [Division] Department and[:

i. A foster] at least one child placed by the Division continues to reside in the Department employee's home; or



[ii. The foster home continues to meet the foster home licensing standards;

iii. The employee or the foster parent who is a member of the employee's household agrees in writing to accept no additional children for placement unless the conditions in (a)1 or 2 above apply; and

iv. The employee or member of the employee's household understands that he or she will no longer be a foster parent when each foster child currently placed leaves the foster family, achieves permanency, or is no longer in placement.]

3. A Department employee or member of the Department employee's household wants to adopt a child with special needs, as defined in N.J.A.C. 10:121-1.1.

(c) Prior to a Department employee or household member applying to be a licensed resource parent, the Department employee shall complete the approval process for an outside activity and receive approval by the Department's ethics liaison. The approval by the ethics liaison becomes part of the Department employee's application to be a resource parent in accordance with N.J.A.C. 10:122C-2.1.

[(b)] (d) The study of [an] a Department employee's home shall be conducted by a Division representative assigned to [a regional] an office where the Department employee [does not work and where the child's case is not supervised when applying to the Division to be a foster parent] has no connections, either personal or professional.

[(c) The Division and each contract agency shall take every measure to prevent any undue influence by the Division employee on the study process and decision-making, as well as to prevent the appearance of influence.]

#### **10:122B-2.2 Relatives of an employee who have a separate household**

(a) For the purpose of this subchapter, the term "relative" is defined as a person connected to a [Division] Department employee by blood, marriage, civil union, domestic partnership, or adoption.

(b) Any relative of a [Division] Department employee may apply and may be licensed to be a [foster] resource parent,[for the general placement of children] as long as the relative lives in a separate household from the Department employee.

(c) Prior to a relative of a Department employee applying to be a licensed resource parent, the Department employee shall complete the approval process as stated in N.J.A.C. 10:122B-2.1(c) above.

[(c)](d) A Division representative of the office serving the geographic area in which the relative lives completes the home study unless the Department employee works in that office. In that situation, the [Deputy] Area Director[, Program Operations,] assigns [another] an office in an adjacent county to complete the home study, the placement, and the supervision of the placement.

[(d)] (e) [The Division shall employ all possible measures to prevent any undue influence by the Division employee on the home study and licensing process.] The Division representatives and Office of Licensing employees shall secure all records regarding the relative's home study and [foster] resource home, so that the Department employee has no access to them.

### **SUBCHAPTER 3. CRIMINAL HISTORY RECORDS CHECKS**

#### **10:122B-3.1 Criminal history records checks**

(a) The Division representative or contract agency employee shall inform the [foster] resource parent applicant that fingerprints for State and Federal criminal history records checks must be taken, pursuant to N.J.S.A. 30:4C-26.8, for:

1. Each [foster] resource parent applicant and each adult household member; and
2. Each new adult household member who is new to the family, including [all children] each household member who reaches 18 years of age.

(b) The Division representative or contract agency employee shall also inform the [foster] resource parent applicant of the procedures for getting the fingerprints taken.

(c) The Division representative or contract agency employee shall obtain the results of the State and Federal criminal history records checks for each [foster] resource parent or applicant and adult household member after the fingerprints have been taken.

(d) Each Division representative and contract agency employee shall keep confidential all criminal history information obtained regarding the [foster] resource parent or applicant and each household member.

## **SUBCHAPTER 4. DIVISION AND CONTRACT AGENCY RESPONSIBILITIES**

### **10:122B-4.1 Division or contract agency responsibilities to a [foster] resource parent**

(a) The Division representative or contract agency employee shall work with the [foster] resource parent to provide the [foster] child in placement with reasonable opportunities to attend religious activities and services in accordance with the [foster] child's preference and the wishes of the child's own parents.

(b) The Division representative or contract agency employee shall provide the [foster] resource parent with information on:

1.-3. (No change.)

(c) The Division representative or contract agency employee shall obtain the school transfer card promptly and give it to the [foster] resource parent if there is a need for the [foster] child to transfer to a different school upon placement [in] with this [foster home] resource parent.

(d) The Division representative or contract agency employee shall assist the [foster] resource parent to support and encourage the [foster] child in placement to engage in recreational and social activities appropriate to the age, interests and abilities of the [foster] child in placement.

(e) The Division representative or contract agency employee shall identify with the [foster] resource parent a [foster child's] child in placement's special transportation needs, if any, and how they will be met.

(f) The Division representative or contract agency employee shall provide the [foster] resource parent with a means of access to the Division on a 24-hour basis.

(g) The Division shall comply with the provisions of the agreement between the [foster] resource parent and the Division, including the system for payment of reimbursement.

(h) The Division representative or contract agency employee shall establish the [foster] resource parent's role in working with the parent to achieve the child's case goal. The Division representative or contract agency employee shall support the [foster] resource parent in fulfilling his or her role.

(i) The Division representative or contract agency employee shall inform the [foster] resource parent of the standards of confidentiality contained in N.J.S.A. 9:6-8.10a, 45 [C.F.R.] CFR 205.50 and N.J.A.C. 10:133G.

**SUBCHAPTER 5. PROVISIONS RELATED TO APPLICANTS AND [FOSTER]  
RESOURCE PARENTS LICENSED AND SUPERVISED BY THE  
DIVISION**

**10:122B-5.1 Pre-service training**

(a) The Division shall hold pre-service training on a monthly basis in various locations throughout the State.

1. (No change.)

2. A Division representative may provide the pre-service training at the applicant's home if the [foster] resource parent applicant demonstrates a compelling need to receive the training in his or her home.

(b) A Division representative shall conduct the pre-service training program and shall utilize an experienced [foster] resource parent who is approved by the Division as a co-trainer, as resources permit.

(c) During the initial phase of the pre-service training, the Division representative shall provide information about the standards for becoming a [foster] resource parent, the home study process, the [foster] resource home resource needs of the Division, and the Division's policies and procedures related to [foster] resource care, as specified in this chapter, N.J.A.C. [10:122B,] 10:122C, 10:122D, and 10:122E. The pre-service training shall include an explanation of:

1. (No change.)

2. The Division's requirements for becoming a [foster] resource parent, as outlined in N.J.A.C. 10:122C.

**10:122B-5.2 Reimbursement for [foster] resource parent applicant**

(a) The [foster] resource parent applicant may request reimbursement of the cost of a physical examination necessary to provide the information required in N.J.A.C. 10:122C. The Division representative shall approve reimbursement at a rate determined by the Division, if the [foster] resource parent applicant's family has a verified income below 150 percent of the Federal Poverty Income Guidelines, as published in the Federal Register, and the examination is not available free of charge.

(b) The [foster] resource parent applicant may file for reimbursement for transportation, parking and babysitting costs incurred by the [foster] resource parent applicant, which are directly related to attendance at the pre-service training sessions. The [foster] resource parent applicant may file for reimbursement after completing the entire pre-service training program.

(c) (No change.)

#### **10:122B-5.3 Home visit**

(a) The Division representative shall visit the [foster] resource parent applicant's home at least one time as part of the study process.

(b) During the home visit, the Division representative shall:

1. Assess compliance with the sleeping space and life safety standards, as outlined in N.J.A.C. 10:122C-[1.13 and 1.14]4, Physical Facility Requirements;

2.-4. (No change.)

5. Discuss the type of child acceptable and the potential impact of [foster] resource care on the family; and

6. Discuss any other questions raised by the [foster] resource parent applicant or any household member.

#### **10:122B-5.4 [Foster] Resource parent applicant withdrawal**

(a) A [foster] resource parent applicant may withdraw his or her application at any time during the licensing process.

(b) The Division shall consider that the [foster] resource parent applicant has withdrawn if the [foster] resource parent applicant:

1.-2. (No change.)

(c) The Division representative shall give the [foster] resource parent applicant written notice acknowledging the withdrawal and informing the [foster] resource parent applicant that he or she may reapply at any time.

#### **10:122B-5.5 Transportation reimbursement**

The Division shall reimburse the [foster] resource parent for transportation for a [foster child's] child in placement's special needs with prior approval of the office manager. Special

needs may include the treatment of physical, emotional, mental or cognitive conditions or to comply with a court summons or court order.

**10:122B-5.6 [Foster] Resource parent's employment and supervision or child care for the [foster] child in placement**

(a) If a single [foster] resource parent is, or both [foster] resource parents are, employed outside the home, the Division representative shall develop with the [foster] resource parent, as part of the case plan, a plan for the care and supervision of each [foster] child in placement while the [foster] resource parent is at work. The plan shall be appropriate to the age and needs of the [foster] child in placement, subject to supervisory approval, and in compliance with N.J.A.C. 10:122C-[1.9]6.1(a)4.

(b)-(c) (No change.)